

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JERMAINE HAYNES, et al.,

No. C 05-2670 MMC

Plaintiffs,

v.

**ORDER DISMISSING PLAINTIFF DAVID
MCFARLIN II'S CLAIMS WITHOUT
PREJUDICE**

ANNA'S LINENS, et al.,

Defendants

By order filed January 27, 2006, the Court ordered plaintiff David McFarlin II ("McFarlin") to show cause why his claims against defendants should not be dismissed for failure to prosecute. Plaintiff has not filed a response within the time specified in the Court's order.

Accordingly, for the reasons set forth in the Court's order of January 27, 2006, McFarlin's claims against defendants are hereby DISMISSED, pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, for failure to prosecute. In the event that a class is certified in the instant action, however, this dismissal is without prejudice to McFarlin's claims being pursued by class representatives, to the extent McFarlin is a member of the class.

IT IS SO ORDERED.

Dated: February 27, 2006


MAKINE M. CHESNEY
United States District Judge